

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE
October 12, 2006 Session

ANN MARGARET KALISZ SHOFNER v. ROBERT JACKSON ET AL.

Circuit Court for Davidson County
No. 04C-1016 Tom E. Gray, Chancellor

No. M2006-00150-COA-R3-CV - Filed on March 30, 2007

WILLIAM C. KOCH, JR., P.J., M.S., concurring.

I concur with the court's conclusion that the statute of limitations bars both of Dr. Ann Margaret Kalisz Shofner's legal malpractice claims. However, I have prepared this separate opinion to point out that when a statute of limitations defense has been asserted, it is the court's role to determine when the cause of action accrued, not to determine the latest possible date to start the running of the statute of limitations.

Dr. Shofner's cause of action arising from the handling of the custody dispute accrued on September 19, 2002 – the date the trial court entered its order placing custody of two of the parties' three children in their father's custody. Her cause of action based on the lawyers' withdrawal from the case accrued on March 21, 2003 - the date when the lawyers actually withdrew from the case. Dr. Shofner filed her legal malpractice complaint on April 7, 2004. Because her complaint was filed more than one year after both her causes of action accrued, her legal malpractice claims are time-barred.

WILLIAM C. KOCH, JR., P.J., M.S.